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<b>USDC SDNY</b>
<b>DOCUMENT</b>
<b>ELECTRONICALLY FILED</b>
<b>DOC #:</b>
<b>DATE FILED:</b> 12/20/13

December 19, 2013

**VIA ECF**

Honorable Lorna G. Schofield  
United States District Judge  
Southern District of New York  
United States Courthouse  
40 Foley Square  
New York, New York 10007

Re: DIBA Family Limited Partnership, et al. v. David Ross, et al.: 13-cv-6384 (LGS) (JLC)

Dear Judge Schofield:

This firm represents defendants David Ross and Helen Werngren-Ross (the “Ross Defendants”) in the above-referenced case. The parties appeared before Your Honor for an initial pretrial conference on November 25, 2013. Pursuant to the Case Management Plan and Scheduling Order, which was entered later that day (the “Scheduling Order”), the parties are due to submit a joint status letter by January 3, 2014. We are writing now with plaintiffs’ consent and respectfully request that the Court accept this letter as the joint status letter.

In accordance with the Scheduling Order, on December 4, 2013, the Ross Defendants served a letter to plaintiffs outlining their query related to plaintiffs’ standing and highlighting other defects in the Amended Complaint. On December 10, 2013, the Ross Defendants also have served their Initial Disclosures. In addition, on December 18, 2013, plaintiffs served their Second Amended Complaint.

The Scheduling Order does not set forth a deadline for any response to the Second Amended Complaint. As the Court is aware, pursuant to Rule 15(a)(3) of the Federal Rules of Civil Procedure, any response is currently due no later than January 6, 2014.<sup>1</sup> The Ross Defendants intend to move to dismiss the Second Amended Complaint, but the parties are scheduled to attend a settlement conference before Magistrate Judge Cott on January 10, 2014.

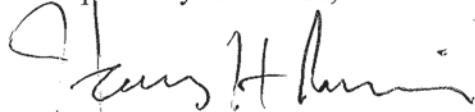
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<sup>1</sup> Section III.C(2) of Your Honor’s Individual Rules and Practices for Civil Cases provides that after a motion to dismiss is filed, the plaintiff may amend its complaint, and the defendant must then respond to the amended pleading within 21 days. It is our understanding that this provision does not apply here because the Ross Defendants have not yet filed a motion to dismiss in this case.

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As such, and with the consent of plaintiffs' counsel, we respectfully request that the Court adjourn the deadline for the Ross Defendants' response to the Second Amended Complaint until February 24, 2014.<sup>2</sup>

Respectfully submitted,

  
Harry H. Rimm

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Application Granted. The deadline to answer is extended to February 24, 2014.

Dated: 12/20/2013

New York, New York

**SO ORDERED**

  
HON. LORNA G. SCHOFIELD  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> This is the Ross Defendants' first request for an extension of this deadline.